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Attorneys for Defendants
Michael R. Neely, Perry J. Neely and Gary Neely

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PALMTREE ACQUISITION
CORPORATION, a Delaware corporation,

Plaintiff,

vs.

MICHAEL R. NEELY, an individual,
PERRY J. NEELY, an individual; GARY
NEELY, an individual; MICHAEL R.
NEELY, PERRY J. NEELY and GARY
NEELY dba MIKE'S ONE HOUR
CLEANERS; CHARLES FREDERICK
HARTZ dba PAUL'S SPARKLE
CLEANERS; CHARLES F. HARTZ, an
individual; MULTIMATIC
CORPORATION, a New Jersey
corporation; WESTERN STATES
DESIGN, a California corporation;
MCCORDUCK PROPERTIES
LIVERMORE, LLC, a Delaware limited
liability company individually and as the
successor to JOHN MCCORMICK,
KATHLEEN MCCORDUCK, PAMELA
MCCORDUCK, SANDRA
MCCORDUCK MARONA, and IMA
FINANCIAL CORPORATION, a
California corporation; STARK
INVESTMENT COMPANY, a California
general partnership; GRUBB & ELLIS
REALTY INCOME TRUST,

Case No. CV 08 3168 EMC

**STIPULATION AND [PROPOSED]
ORDER RE CONTINUANCE OF
MEDIATION AND CONTINUANCE OF
INITIAL CASE MANAGEMENT
CONFERENCE**

(Currently Scheduled CMC: 3/18/09)

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Oakland, CA 94607-4036

LIQUIDATING TRUST, a California trust;
and DOES 1-20, inclusive,
Defendants.

RECITALS

A. Plaintiff Palmtree Acquisition Corporation filed this action ("Action") as a "re-opener" of a prior action that was conditionally settled, which prior action was filed on February 3, 1993 in the United States District Court for the Northern District of California, entitled *Grubb & Ellis Realty Trust v. Catellus Development Corp., et al.*, and related cross-actions, Case No. C93-0383 SBA.

B. The parties to the Action stipulated and requested that the Court grant a continuance of the Initial Case Management Conference to allow the parties to engage in mediation. The Court issued its order approving the stipulation and granting the continuance on September 15, 2008. ("Stipulation")

C. Pursuant to the Stipulation, the mediation was to occur by February 2, 2009, and the Initial Case Management Conference was continued to March 18, 2009.

D. However, while the parties to the Action have jointly retained an environmental consultant to respond to the California Regional Water Quality Control Board ("RWQCB") directives to investigate the extent and source of the environmental contamination, the completion of the work has been delayed, due in part to technical difficulties in obtaining access to test the public municipal supply wells. The joint environmental consultant has requested that the RWQCB approve an extension until April 30, 2009 to complete the "field work" and a further delay to complete the technical analysis (site conceptual groundwater flow modeling) and to submit a draft environmental report. It is now estimated that the draft environmental report will be completed in June, 2009. Approval by the RWQCB, while anticipated, is currently pending.

E. The parties to the Action have held period meetings and regular conference calls to discuss the status of the environmental response. At our February 2, 2009, conference call, the parties agreed that mediation should be scheduled after the environmental report has been

completed, and that the mediation should be scheduled no later than September 1, 2009.

F. The parties also discussed naming additional defendants and/or cross defendants/third party defendants to the Action.

Therefore, in the interest of judicial economy, pursuant to Local Rule 6-1(b) and 7-12, the parties below hereby agree and stipulate, and requests that the Court modify the previous Stipulation as follows:

STIPULATION

1. The parties to this Action agree to commence settlement discussions with a private mediator, to be scheduled no later than September 1, 2009 ("Mediation"). The Mediation may cover multiple days and may be continued from time to time and will be deemed to have concluded at such time as: (a) a settlement is reached, or (b) the mediator issues a letter concluding that a settlement has not been reached and the Mediation is concluded.

2. In order to allow the parties to proceed with Mediation, the parties to the Action request that the Court continue the Initial Case Management Conference now scheduled for March 18, 2009, to September 16, 2009; the parties shall submit a joint case management conference statement advising the Court as to the status of the Mediation no later than September 9, 2009.

3. The parties further agree that in all other respects the Stipulation approved by the Court on September 15, 2008, remains in effect.

Wherefore, the Parties respectfully request that the Court approve this Stipulation.

DATED: 2/2/2009

Cox, Castle & Nicholson LLP

By: 


Stuart I. Block
Peter M. Morrisette
Attorneys for Palmtree Acquisition
Corporation f/k/a Catellus Development

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DATED: 2/2/09

Wendel, Rosen, Black & Dean LLP

By: 

Christine K. Noma
Attorneys for Michael R. Neely, Perry J. Neely, and
Gary Neely, dba Mike's One Hour Cleaners

DATED: _____

Rogers Joseph O'Donnell

By: _____

Robert C. Goodman, Esq.
Attorneys for Charles Frederick Hartz, dba Paul's
Sparkle Cleaners

DATED: _____

Dongell Lawrence Finney, LLP

By: _____

Thomas F. Vandenburg, Esq.
Attorneys for Multimatic Corporation

DATED: _____

Foley McIntosh Frey & Claytor

By: _____

Kenneth W. Pritikin, Esq.
Attorneys for Western State Design

DATED: _____

Gordon, Watrous, Ryan, Langley, Bruno &
Paltenghi

By: _____

Bruce C. Paltenghi, Esq.
Attorneys for McCorduck Properties Livermore,
LLC

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14 Sparkle Cleaners
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18 By: W. Culver for TFV
19 Thomas F. Vandenburg, Esq.
20 Attorneys for Multimatic Corporation
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22 DATED: _____ Foley McIntosh Frey & Claytor
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24 By: _____
25 Kenneth W. Pritikin, Esq.
26 Attorneys for Western State Design
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28 DATED: _____ Gordon, Watrous, Ryan, Langley, Bruno &
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Attorneys for Western State Design

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By: _____

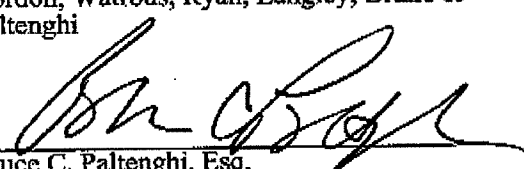
Bruce C. Paltenghi, Esq.
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GORDON WATROUS

PAGE 02/02

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 By: 
 Bruce C. Paltenghi, Esq.
 Attorneys for McCorduck Properties Livermore,
 LLC

DATED: 2/3/2009

Gonsalves & Kozachenko

Paul Kozachenko

By: Paul Kozachenko, Esq.
Attorneys for Stark Investment Company

DATED:

The Costa Law Firm

By: Daniel P. Costa, Esq.
Attorneys for Stark Investment Company

DATED:

Ellis Partners, LLC

By: (deceased – successor entity not yet ascertained)
Harold A. Ellis Jr., Trustee for
Grubb & Ellis Realty Income Trust, Liquidating
Trust

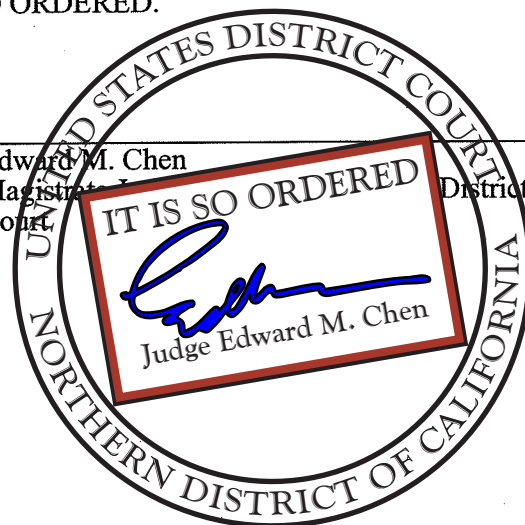
ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 4, 2009

Edward M. Chen
Magistrate
Court

District



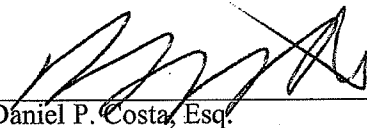
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DATED: _____ Gonsalves & Kozachenko

By: _____
Paul Kozachenko, Esq.
Attorneys for Stark Investment Company

DATED: 2/2/09 _____ The Costa Law Firm

By:  _____
Daniel P. Costa, Esq.
Attorneys for Stark Investment Company

DATED: _____ Ellis Partners, LLC

By: (deceased – successor entity not yet ascertained)
Harold A. Ellis Jr., Trustee for
Grubb & Ellis Realty Income Trust, Liquidating
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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Edward M. Chen
Magistrate Judge of the United States District
Court